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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,000	12/05/2003	John M. Guynn	15257.3.2	9102

7590 10/25/2004

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EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.:

10/729,000

Applicant(s)

GUYNN, JOHN M. 

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-29 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13 and 16-29 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 20-25 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,310,958 to O'Connor.

Regarding Claims 1 and 20-25, O'Connor teaches a restraint for use in holding or restraining a child in a desired position by a pair of opposing handles (#18); and attachment means (#19 and 17) for attaching the pair of opposing handle adjacent to a child's body on opposite sides of a child's center of gravity during use.

Regarding Claim 2, O'Connor teaches the handles have at least one loop, the loop comprising at least one of a fabric, plastic, elastomer, metal, ceramic, or composite material (#18).

Regarding Claim 3, O'Connor teaches the attachment means has a single sheet or strap of flexible material configured so as to wrap at least partially around a child's body (#1).

Regarding Claim 4, O'Connor teaches the attachment means has a plurality of straps configured so as to wrap at least partially around a child's torso or limbs (#9, 7, 12, 13).

Regarding Claim 5, O'Connor teaches the attachment means has one or more fastening devices configured so as to releasably attach the attachment means to a child's body (#11, 16, 2, 19, 17).

Regarding Claim 6, O'Connor teaches the fastening devices have one or more of a hook and loop system, a buckle, a tie, a snap, a latch, or a ratchet (#11, 16, 2, 19, 17).

Regarding Claim 7, O'Connor teaches the attachment means configured so as to position the handle means at or near one of a child's spine or sternum (#18 is located "near" the spine and element #18 and 17 can be positioned at various points along #1).

Regarding Claim 8, O'Connor teaches the attachment means configured so as to position the handle means at or near a center of at least one of a child's chest, upper back, lower back, or stomach (#18 is located "near" the stomach and lower back and element #18 and 17 can be positioned at various points along #1).

Claims 18 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,027,792 to Calkin.

Regarding Claims 17 and 28, Calkin teaches restraint device for use in holding or restraining a child in a desired position, comprising: a flexible corset or harness sized and configured so as to wrap (#42) around at least a portion of a child's body; at least one fastening device (#44) connected to the corset or harness that permits selective fastening and unfastening of the corset or harness around at least a portion of the child's body; a handle (#72) attached to the corset or harness in a manner so that the handle is positioned at or near a central balancing plane of the child's body and

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between the child's head and buttocks when the restraint device is in use; and a head (Fig. 3) restraint device configured to restrain a child's head in a desired position relative to the child's body when the restraint device is in use.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-13, 16, 18, 19, 26, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,310,958 to O'Connor in view of U.S. Patent No. 5,766,114 to Campbell.

Regarding Claims 10 and 27, O'Connor teaches a restraint device for use in holding or restraining a child in a desired position by a flexible corset or harness sized and configured so as to wrap around at least a portion of a child's body, wherein the corset or harness comprises a flexible straps wrapped at least partially around the child's torso (O'Connor #1); at least one fastening device (O'Connor #2) connected to the corset or harness that permits selective fastening and unfastening of the corset or harness around at least a portion of the child's body; and a handle (O'Connor #18) attached to the corset or harness in a manner so that the handle is positioned adjacent to the spine, sternum, stomach or chest of the child's body when the restraint device is in use

O'Connor teaches one lateral strap, but is silent on a plurality of laterally spaced straps. However, Campbell teaches a child restraint harness with a plurality of laterally spaced straps (Campbell #13C and 13D). It would have been obvious to one of ordinary skill in the art to modify the teachings of O'Connor with the teachings of Campbell at the time of the invention since the modification is merely the duplication of a known element for a multiple effect and a more secure hold of the torso. This modification does not present a patentably distinct limitation

Regarding Claim 11, O'Connor as modified teaches the handle (O'Connor #18) comprises a loop.

Regarding Claim 12, O'Connor as modified inherently teaches the handle has sufficient friction that it can be reliably gripped without significant slippage when contacted with soapy water (O'Connor #18).

Regarding Claim 13, O'Connor as modified teaches the corset or harness has at least one of a fabric, plastic, elastomer, metal or composite material (#18 and 1).

Regarding Claim 16, O'Connor as modified teaches the corset or harness comprises one or more flexible straps sized and configured so as to wrap around at least one of a child's shoulders or legs (O'Connor #12 and 13).

Regarding Claim 18, O'Connor as modified teaches the fastening device comprises at least one of a hook and loop system, a buckle, a tie, a snap, a latch, or a ratchet (O'Connor #2 and 16).

Regarding Claim 19, O'Connor as modified teaches a second handle attached to the corset or harness in a manner so that the second handle is positioned at or near a

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central balancing plane on an opposite side of the child's body relative to the handle when the restraint device is in use (O'Connor #18).

Regarding Claim 26, O'Connor as modified teaches the container or basin is a bath tub (Campbell abstract).

Regarding Claim 9, O'Connor as modified teaches a head restraint (Campbell #16 and Fig. 9)

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,310,958 to O'Connor in view of U.S. Patent No. 6,125,792 to Gee.

Regarding Claim 29, O'Connor is silent on a cushioning material. However, Gee teaches a cushioning material (Gee #50 and 51) separate from the corset or harness, disposed on at least a portion of an inner surface of the corset or harness so as to shield and protect sensitive skin of a baby or young child from the corset or harness when in use. It would have been obvious to one of ordinary skill in the art to modify the teachings of O'Connor with the teachings of Gee at the time of the invention for the old and notoriously well-known advantage of reducing chaffing and soars from the rough material. Gee does not explicitly teach the type of padding material. However, a cushioning material comprising at least one member selected from the group comprising fleece, felt, other soft and flexible fabrics, silicone, other polymeric gel materials, polyurethane foam, and other soft and flexible foam materials are old and notoriously well-known padding materials selected merely as an engineering design

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choice for intended use [Leshin 125 USPQ 416] and does not present a patentably distinct limitation.

Response to Arguments

Applicant's arguments with respect to claims 1-13 and 16-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 5,664,844.


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti
Patent Examiner
Art Unit 3643

14 October 2004



Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600